

ENTERED

January 06, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

DONG SHENG HUANG, §
§
Plaintiff, §
VS. § CIVIL ACTION NO. 3:15-CV-0269
§
JALEA JOECHELLE HILL, *et al*, §
§
Defendants. §

ORDER ON DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

The Court has considered the Motion for Partial Summary Judgment filed by Defendants Jalea Joechelle Hill, Karea Marie Williams, and Murphy Oil USA, Inc., Dkts. 83, 84.

The factual and legal background of this case has been laid out previously. The Court takes judicial notice of the docket sheet of this case, as well as related proceedings in this Court.

The issue presented here is simple: is Huang's suit timely? Defendants seek summary judgment by arguing that Huang's cause of action for malicious civil prosecution occurred on September 18, 2014, and that cause of action is governed by a one-year statute of limitations.

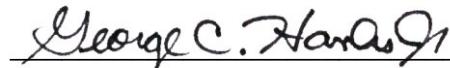
When a petition to proceed in forma pauperis is granted, the proper filing of that petition "does not jeopardize the timeliness of the plaintiff's commencement of suit." *Ynclan v. Dep't of Air Force*, 943 F.2d 1388, 1392–93 (5th Cir. 1991) (citing *Hernandez v. Aldridge*, 902 F.2d 386, 388 (5th Cir. 1990), cert. denied, 498 U.S. 1086, 111 S.Ct.

962, 112 L.Ed.2d 1049 (1991); *see also Martin v. Demma*, 831 F.2d 69 (5th Cir. 1987) (“Clerical delay in the formal filing of this in forma pauperis complaint should not affect the operative event, that is, the receipt of the complaint by the court.”); *McClelland v. Herlitz, Inc.*, 704 F.Supp. 749, 751 (N.D. Tex. 1989).

Huang filed his application to proceed in forma pauperis, along with his proposed complaint, in this Court on September 17, 2015. *See Dongsheng v. Hill et al*, Cause No. 3:15-mc-00008, S.D. Texas, Galveston Division. The Court granted that petition on September 21, 2015, and the Clerk of this Court then opened this current lawsuit and filed the attached complaint within. *See* Dkt. 1, Complaint. Thus, Huang’s suit was commenced within the one-year statute of limitations.

Accordingly, the Defendants’ Motion for Summary Judgment is **DENIED**.

SIGNED at Galveston, Texas, this 6th day of January, 2017.



George C. Hanks Jr.
United States District Judge